

Application No.: 10/674,310

Docket No.: 22044-00005-US

REMARKS

Applicant respectfully requests reconsideration in view of the amendment and following remarks. Claims 4 to 7 have been cancelled to reduce the number of claims for appeal. Claims 1 to 3 and 8 to 13 remain pending. Claim 1 was amended to incorporate limitations from claims 4, 5 and 6. No new matter was added to claim 1.

Claims 1 and 4-12 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 885,444 (Cram), in view of U.S. Patent No. 724,246 (Bentley). Claims 2, 3 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 885,444 (Cram), in view of U.S. Patent No. 724,246 (Bentley) as applied to claim 1 and further in view of U.S. Patent No. 1,288,617 (Kupiszewski). Applicant requests clarification since there is no pending claim 14. Applicant respectfully traverses the rejections under 103(a).

Cram discloses a mixing spoon with raised blades. Bentley discloses an egg beater with slots. Both patents teach the use of blades and slots to facilitate mixing. Neither reference teaches a hand utensil for peeling and pitting a fruit as required by amended claim 1.

Cram does not show a ridge at a distal end (at the tip) of the bowl of the spoon. Thus, Cram is not configured to break through the skin of a fruit or around a fruit pit to peel and pit a fruit. Moreover, Cram shows multiple ridges extending through the entirety of the concave surface of the spoon bowl. Bentley shows slots extending throughout the bowl of the egg beater. There is no teaching or suggestion in Bentley to have ridges at the tip of the spoon bowl, and separated from slots formed in the central portion of the spoon bowl, as is required by amended claim 1.

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The Examiner has ignored the portions of Cram and Bentley that teach away from the hand utensil claimed in claim 1 as amended. For example, the egg beater in Bentley has two bowls, with one offset from the other at 90 degrees. One could not manipulate this structure to peel or pit a fruit, such as a mango, because one could not get sufficient leverage. The offset second pierced spoon bowl would interfere with any attempt to peel or pit a fruit.

Claim 1 as amended expressly requires a spoon-shaped bowl that defines a plurality of generally parallel elongated slots that extend through the bowl and in a lower region of the concave surface of the bowl. Claim 1 as amended expressly requires a series of arcuate ridges, where the first ridge is formed at the distal end of the spoon bowl, and the last arcuate ridge is spaced apart from the plurality of elongated slots extending through the bowl. In contrast, Cram shows a spoon with what the Examiner contends are ridges, but none of these "ridges" are at the distal end of the spoon bowl. Bentley shows two spoon bowls offset from one another and joined together, where slots extend through the entirety of each spoon bowl. Bentley does not show elongated slots only in a lower region of the concave surface of the bowl.

Persons of skill seeking to create a hand utensil for pitting and peeling a fruit would not be disposed to combine structure for an egg beater, such as Bentley, with structure for a mixing spoon, such as Cram. But even if the combination were attempted, the structure would not be that of amended claim 1. Neither Cram nor Bentley teach or suggest that ridges and elongated slots be formed in one hand utensil, or that the ridges should be in a region separated from the region where the slots are formed. Thus, amended claim 1 and corresponding dependent claims 2, 3 and 8 to 13 patentably distinguish over these cited references.

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Kupiszewski was cited for disclosure of a retractable knife blade. Kupiszewski fails to remedy the deficiencies of Cram and Bentley because it likewise fails to teach a hand utensil with slots and ridges in the stated orientation for peeling and pitting a fruit as required by the claims. Thus, all pending claims should be allowed.

Applicant believes no fee is due with this Amendment. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 22044-00005-US from which the undersigned is authorized to draw.

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Respectfully submitted,

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